

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION**

GS&D, INC., d/b/a GRINNELL DOOR COMPANY¹
Employer

and

CASE 7-RC-21966

LOCAL 1102, MICHIGAN REGIONAL COUNCIL
OF CARPENTERS, UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF AMERICA, AFL-CIO
Petitioner

APPEARANCES:

Donald H. Scharg, Attorney, of Bloomfield, Michigan, for the Employer.
Nicholas R. Nahat, Attorney, of Southfield, Michigan, for the Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:²

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ The name of the Employer appears as amended at the hearing.

² Both parties filed briefs which were carefully considered.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

5. The Employer, a Michigan corporation located in Mt. Clemens, is engaged in the business of assembly and wholesale distribution of interior and exterior entry doors, both as-is and pre-hung. The Petitioner seeks a unit of approximately nine shop/warehouse employees and one installer. The Employer contends that the petitioned-for employees share an overriding community of interest with other employees at the facility and must also include five driver/warehouse employees, one inside sales employee, and one janitorial employee.³ There is no history of collective bargaining with respect to the petitioned-for employees.

The Employer purchases finished doors from manufacturers located throughout the United States and sells them to customers as-is, or adds a frame and distributes the doors “pre-hung.” It employs two outside sales persons and one inside sales person. The inside sales person, Tim Morgan, along with the four accounting clerks in the front office, processes orders placed by customers and subsequently produces a work order or “picking ticket” containing details about the customer’s order, including whether or not a particular door will be “pre-hung.” The shop/warehouse employees (shop employees) primarily produce pre-hung framework for the finished doors and affix framework to the doors per customer orders. They accomplish the latter functions by first referring to a picking ticket. Copies of these tickets are either delivered to work stations by Bryan Iannuzzi, the Employer's vice president, or are available to shop employees in the office. The tickets are arranged by order of priority and placed on clipboards at work stations, so that the frames are constructed in conformance with specifications. There are three work stations within the production area: interior pre-hung, special pre-hung, and steel pre-hung. In addition to these stations, there is a “cut-down” area in another section of the building, known as the “all storage” area. In the cut-down area, employees cut doors to a specific size. Shop employees must obtain the required stock needed to complete pre-hung orders.

³ The Employer agrees that two outside sales employees and four accounting clerks in the office are excluded from the unit.

Such stock includes the doors themselves, found primarily in the “all storage” area, but also found in the shipping/receiving/storage area. Shop employees must then obtain various hardware needed to complete the order.

In addition to the foregoing duties, shop employees also assist in the loading and unloading of trucks, delivery, the storage of inventory, inventory count, shop clean-up, and occasional customer service, though the record evidence reveals conflicting testimony with respect to the frequency of the performance of these additional duties.

As to loading trucks, Mark Iannuzzi, president, testified that shop employees assist driver/warehouse employees (drivers) daily in loading company trucks scheduled for dispatch that day.⁴ This is primarily done prior to the start of the regularly scheduled shift. Brian Barnes, a former employee who worked for the Employer for four years and as recently as February 16, 2001, testified that although shop employees occasionally come in early to assist in loading trucks, they primarily came in early to catch up on production work. Barnes testified that perhaps only as much as two or three percent of his time was spent loading.

The Employer receives shipments of doors from suppliers located throughout the United States via common carrier. The Employer's drivers and shop employees are both responsible for unloading trucks, using a hi-lo or pallet jack to expedite the tasks. When the truck is unloaded, an employee signs the necessary paperwork, forwards the paperwork to the office, and is subsequently informed as to the status of the goods: whether they are already sold, or are to be stowed as inventory. From the dock, the goods are stored accordingly. If a particular door is to be re-sold as-is, it is stored within the shipping/receiving/storage area so that it can be easily loaded onto trucks for delivery. If the particular door is to be added to inventory, it is placed in the “all storage” area.

Shop employees spend the vast majority of their work time assembling pre-hung doors. They frequently are responsible for moving inventory from the shipping/receiving area to the “all storage area,” and move finished pre-hung doors from the production area into the shipping/receiving area. If there is no production work, shop employees clean and sweep the facility. They only occasionally assist walk-in customers, on an as-needed basis.

Shop employees had been making deliveries one or two times a week, but currently are used less frequently —about once or twice per month. If they use the

⁴ The Employer owns six vehicles used for delivery: four stake trucks, one of which is equipped with air brakes and thus requires a Commercial Drivers License (CDL); a van; and a pick-up truck.

van or pick up truck, no special license is required. With respect to the four stake trucks, three require a chauffeur's license and one requires a Class B CDL. Shop employees also assist driver/warehouse employees with deliveries of doors too heavy or cumbersome for one person.

One employee is designated as an installer and is assigned to drive to customer premises to install interior and exterior doors. The installer spends about an hour or two a day at the facility loading and unloading his van to prepare for installation jobs. When he does not have installations to perform, he also does various jobs throughout the facility, assisting shop employees with production.

The primary function of the two full-time and three part-time driver/warehouse employees is the delivery of doors to customers. In addition to these duties, drivers are required to load and unload trucks, store and retrieve inventory, assist walk-in customers, clean, and occasionally assist shop employees in production. On average, three of the six delivery vehicles are dispatched each day, though occasionally all six are used.

Typically, drivers begin each day loading the delivery trucks with the day's orders, using shipping schedules prepared by Mark Iannuzzi with assistance from one of the drivers. Loading often occurs between 6 a.m. and 9 a.m. despite the drivers' regularly scheduled hours being from 7:30 a.m. to 5:00 p.m. Shop employees occasionally report to work early to assist drivers in loading delivery trucks.

Drivers spend from one to six hours on deliveries each day. The remaining portion of the day is spent unloading incoming inventory, taking new inventory to warehouse storage, and shop cleaning. Mark Iannuzzi testified that occasionally, drivers assist shop employees in the production area by stacking, listing, and shrink wrapping doors for shipping. According to Iannuzzi, drivers spend approximately three to four hours per week performing these tasks. However, former employee Barnes testified that drivers never assist in the production of pre-hung doors because they lack the skills to operate the machinery. He testified that the only contact between drivers and shop employees in the production area occurs when drivers are checking on the status of a particular door due for delivery.

Three shop employees have volunteered to make customer deliveries on an as-needed basis, but the only evidence of transfers between the shop employee and driver positions has been the temporary transfer of one driver into the shop for three to four months while his driver's license was suspended.

Drivers and shop employees are directly supervised by Vice President Bryan Iannuzzi and the work hours for both drivers and shop employees are 7:30

a.m. to 5:00 p.m. Monday through Friday. Both drivers and shop employees are paid hourly and fall within the same wage range, from \$10 to \$14 per hour. For example, shop employees Charles Calamari and Dave Sulki currently earn \$13.50 and \$11 per hour, respectively, while driver Robert Arens earns \$13 per hour. Both drivers and shop employees receive the same benefits, including health insurance, supplemental insurance, holiday pay, and vacation pay. Further, both drivers and shop employees punch the same time clock, use the same break room and rest room facilities, park in the same parking lot, enter the building through the same entrance, and have access to the entire facility.

In addition to the two outside sales persons who work in the office at least one day a week, the inside sales person, Tim Morgan, works 90 percent of the time in the front office area with the accounting clerks. The office is located in a building detached from the shop. Morgan is primarily responsible for taking customer orders by phone or fax and inputting them into the computer to generate picking tickets used by shop employees and drivers to produce and deliver orders. In addition, Morgan assists customers at a counter at the facility, calls customers to advise them that their orders are ready for pick-up, and processes their paperwork. He regularly assists shop employees in locating inventory, clarifying ambiguous customer orders, and checking the progress of certain jobs to satisfy customer inquiries. Morgan also assists drivers by calling customers to ensure their presence to take delivery, and to remind c.o.d. customers of that fact. Morgan works from 7:30 a.m. to 5:00 p.m., earns a salary of \$1050 per week, and does not punch a time clock. He receives the same benefits package as do the shop employees, drivers, and installer, but unlike them, Morgan is directly supervised by the Employer's president, Mark Iannuzzi.⁵ No shop employees perform the duties of the inside sales person on a regular basis.

The janitor, Florence DesJardins, cleans the office area approximately four to six hours per week. She reports to work on Wednesday and Saturday evenings, receives no benefits, and receives a stipend of \$60 each week. She has virtually no interaction with other employees, and like the inside sales person is directly supervised by Mark Iannuzzi.

All employees engage in periodic inventory counts, though there is conflicting testimony as to their frequency. Mark Iannuzzi testified that all employees, including the inside sales person, engage in a inventory count once every two or three months, in addition to a year-end inventory count. Barnes testified that he participated only in an annual inventory count, and that the count was limited to his immediate work area.

⁵ The outside sales persons are supervised by the Employer's treasurer, Keith Iannuzzi.

The Act does not require that the petitioned-for unit for bargaining be the only appropriate unit, or the most appropriate unit; the Act requires only that the unit be appropriate. *Overnite Transportation Co.*, 322 NLRB 723 (1996); *Vincent M. Ippolito, Inc.*, 313 NLRB 715, 717 (1994); *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950). A union is, therefore, not required to seek representation in the most comprehensive grouping of employees unless “an appropriate unit compatible with that requested does not exist.” *P. Ballantine & Sons*, 141 NLRB 1103 (1963).

In determining whether employees are properly included in a bargaining unit, the Board looks to whether the employees whose inclusion is at issue share a community of interest with the bargaining unit employees. The Board, in evaluating the community of interest of employees, considers the nature and skill of employee functions, the situs of the work, the degree of common supervision, working conditions, and fringe benefits, interchange and contact among employees, the functional integration of the facility, and bargaining history. *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 137 (1962).

While at one time Board policy required the inclusion of truck drivers in production and maintenance units unless the parties agreed to exclude them or another labor organization sought to represent them, *Cooperative Milk Producers Assn.*, 127 NLRB 785 (1960), the Board has recognized that the complexity of modern industry precluded the application of fixed rules for the unit placement of drivers. Instead, the Board abandoned a blanket policy of including drivers in more comprehensive units and predicated unit placement in each case upon a determination of respective community of interest. *E.H. Koester Bakery Co.*, 136 NLRB 1006, 1011 (1962). Thus, in addition to traditional community-of-interest factors, unit determinations depended on whether the drivers and the plant employees have related or diverse duties, modes of compensation, hours, supervision, and other terms and conditions of employment; and, whether the drivers are engaged in the same or related production processes or operations, or spend a substantial portion of their time in such production or adjunct activities. *Id.* The Board has recognized that in many cases drivers may share a dual community of interest, with some factors supporting their inclusion in a production and maintenance unit and other factors supporting exclusion. *Pacemaker Mobile Homes*, 194 NLRB 742, 743 (1991).

In the instant case, drivers interact with shop employees on a daily basis, and shop employees are sometimes assigned to deliver orders themselves if there is a shortage of drivers. Drivers and shop employees operate forklifts and load and unload the Employer’s inventory. At least one driver was temporarily transferred into the shop, and the weight of the evidence establishes that at least occasionally the drivers assist shop employees in assembly operations. Shop employees and

drivers are commonly supervised, share the same insurance programs, holiday, and vacation schedule, break area, overtime plan, and parking area, and all assist in periodic inventory counts. Additionally, the weight of the evidence does not demonstrate that the drivers possess any unique skills distinct from the shop employees and the installers. Only one of the trucks requires a Class B CDL license, and of the remaining five, three require merely a chauffeur's license, which several shop employees also possess. See *Calco Plating*, 242 NLRB 1364 (1979); *Standard Oil Co.*, 147 NLRB 1226 (1964).

Accordingly, I find that the drivers have a substantial community of interest with the shop employees and installer, and the drivers' duties and responsibilities are highly integrated with and necessary for the smooth and efficient operation of the Employer's business. Consequently, they must be included in the unit.

With respect to the inside sales person, the Board recognizes that sales persons normally have interests diverse from other employees and do not properly belong in production and maintenance units. *Corrosion Coating Co.*, 157 NLRB 806 (1966). Although Morgan has daily contact with the shop employees and drivers, the weight of the evidence establishes this contact is abbreviated and limited to explaining orders or relaying customer inquiries. The bulk of his time is spent in the office building, removed from the production and warehouse area, where he takes orders and process them. His tasks are more akin to the duties associated with the outside sales employees and the accounting clerks, who are excluded from the unit as clerical employees. The shop employees seldom have customer contact compared to the inside sales employee. Morgan is paid a salary and does not punch a time clock as do the shop employees and drivers. The inside sales person is also separately supervised. I am unconvinced, as argued by the Employer, that the inside sales person is part of a highly integrated order processing operation more typical of a strict warehouse operation. See *S&S Parts Distributors Warehouse*, 277 NLRB 1293 (1985); *Industrial Supplies Co.*, 237 NLRB 189 (1978). Consequently, the inside sales person does not have an overriding community of interest with the shop employees and drivers that requires his inclusion in the petitioned-for unit.

The janitor, Florence DesJardins, works only about six hours a week, during evenings and weekends when employees in the shop are not present. She cleans the office area of the facility, and is not responsible for cleaning the shop/warehouse areas. DesJardins has virtually no contact with unit employees, does not receive benefits, and is paid a stipend of \$60 per week. Accordingly, I find that the janitor has no community of interest with the petitioned-for employees and she is excluded from the unit. See *Orr Iron, Inc.*, 207 NLRB 863, 867 (1973), *enfd.* 508 F.2d 1305, (7th Cir. 1975).

6. For the above reasons, and based on the record as a whole, the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within Section 9(b) of the Act:⁶

All full-time and regular part-time shop employees, installers, and drivers, employed by the Employer at its Mt. Clemens, Michigan facility; but excluding inside sales persons, office clerical employees, janitors, confidential employees, guards, and supervisors as defined in the Act.

Those eligible shall vote as set forth in the attached Direction of Election.

Dated at Detroit, Michigan this 2nd day of April, 2001.

(Seal)

/s/Theodore C. Niforos

Theodore C. Niforos, Acting Regional Director
National Labor Relations Board
Seventh Region
Patrick V. McNamara Federal Building
477 Michigan Avenue - Room 300
Detroit, Michigan 48226

440-1760-6780
420-0100
420-2966
420-5034
420-2963

⁶ The unit found to be appropriate herein is broader than the unit requested by the Petitioner, but the Petitioner agreed to proceed to an election if a larger unit was found to be appropriate. I am administratively satisfied that the Petitioner has a sufficient showing of interest in the larger unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted under the direction and supervision of the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those employees in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military service of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by:

LOCAL 1102, MICHIGAN REGIONAL COUNCIL OF CARPENTERS, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO

LIST OF VOTERS⁷

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that **within 7 days** of the date of this Decision, **2** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. The list must be of sufficient clarity to be clearly legible. The list may be submitted by facsimile transmission, in which case only one copy need be submitted. In order to be timely filed, such list must be received in the **DETROIT REGIONAL OFFICE** on or before **April 9, 2001**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570**. This request must be received by the Board in Washington by: **April 16, 2001**

Section 103.20 of the Board's Rule concerns the posting of election notices. Your attention is directed to the attached copy of that Section.

⁷ If the election involves professional and nonprofessional employees, it is requested that separate lists be submitted for each voting group.